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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

19 IN RE: UBER TECHNOLOGIES, INC.,
20 PASSENGER SEXUAL ASSAULT
21 LITIGATION

22 This Document Relates to:

23 ALL BELLWETHER TRIAL CASES

24 Case No. 3:23-md-03084-CRB

25 **DEFENDANTS UBER TECHNOLOGIES,
26 INC., RASIER LLC AND RASIER-CA,
27 LLC'S NOTICE OF ANTICIPATED
28 AFFIRMATIVE DEFENSES**

Judge: Hon. Charles R. Breyer
Courtroom: 6 – 17th Floor

1 Pursuant to the parties' Joint Case Management Statement (ECF No. 3157), Defendants Uber
 2 Technologies Inc., Rasier LLC and Rasier-CA, LLC (collectively, "Uber" or "Defendants")
 3 respectfully submit their anticipated affirmative defenses in the bellwether trial cases in this MDL
 4 proceeding, as set forth below. Defendants reserve the right to assert additional affirmative defenses
 5 in light of ongoing case-specific discovery. For example, such discovery may support a basis for
 6 invoking equitable indemnity, which would permit Defendants to seek reimbursement from another
 7 party (e.g., a third-party driver) who is primarily at fault for a Plaintiff's alleged injuries.

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1. *Statute of limitations.* Plaintiffs' claims arose at the time they sustained their purported
 injuries and are stale under the applicable statutes of limitations.
2. *Intervening/superseding criminal act.* The damages of which Plaintiffs complain were
 proximately caused or contributed to by the criminal acts of other persons (i.e., the drivers).
3. *Failure to join indispensable parties.* Plaintiffs' claims are barred by their failure to join
 parties who are necessary and indispensable, including the drivers who allegedly committed
 the acts giving rise to their lawsuits.
4. *Good faith.* Defendants acted in good faith, dealt fairly with Plaintiffs, and gave adequate
 warnings to Plaintiffs with regard to all known or reasonably knowable risks associated with
 the use of the Uber service.
5. *Independent contractor.* Plaintiffs' claims are barred, in whole or in part, under the
 independent contractor defense, as the drivers alleged to have committed the acts giving rise
 to these lawsuits were independently responsible for their own means, methods, and actions.
6. *Apportionment of fault/comparative fault.* Any alleged damages awarded to Plaintiffs must
 be apportioned according to the respective fault of the parties, persons and entities who
 contributed to Plaintiffs' supposed losses or injuries.
7. *Consent/assumption of risk.* Plaintiffs consented to the use of the Uber service knowing the
 nature and potential risks surrounding that service.
8. *Offset/failure to mitigate damages.* Plaintiffs are not entitled to recover any damages due to
 their own failure to take reasonable efforts to mitigate the amount of those damages. And to
 the extent they have mitigated their damages, the costs incurred by Plaintiffs were (or will
 be) borne, in whole or in part, from collateral sources, including through insurance.
9. *Joint and several liability.* Any liability for any non-economic damages awarded to Plaintiffs
 must be limited by California Civil Code § 1431.2, which limits Uber's responsibility to its
 proportionate share of those damages.
10. *Prior release/limitation of liability and damages (Terms of Use).* Plaintiffs' claims are barred
 by a prior release of all claims pursuant to Uber's Terms of Use, which disclaim any liability
 or damages resulting from the actions of third-party drivers.

11. *Abstention.* The Court should abstain from adjudicating Plaintiffs' claims in deference to the
1 limitations provided by California Public Utilities Code Section 1759.

2 Dated: June 16, 2025

3 Respectfully submitted,

4 **KIRKLAND & ELLIS LLP**

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